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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,366	07/23/2003	Tushar V. Choudhary		8227

7590 10/11/2006

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EXAMINER

NGUYEN, CAM N

ART UNIT PAPER NUMBER

1754

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/625,366

Applicant(s)

CHOUDHARY ET AL.

Examiner

Cam N. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/19/06 (an amendment/response).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) ~~4-15~~¹⁻⁶⁴ is/are pending in the application.
- 4a) Of the above claim(s) 37-56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) ~~4-15~~ is/are rejected. ✓ 1-36 & 57-64
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicants' amendments and remarks, filed on 7/19/06, have been made of record and entered. Claims 57-64 have been added.

Claims 1-64 are currently pending in this application.

Status of Withdrawn Claim(s)

2. This application contains claims 37-56 which drawn to an invention nonelected with traverse in Paper No. August 26, 2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-14, 16-35, & 57-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sughrue et al., "hereinafter Sughrue", (US Pat. 6,254,766).

Sughrue discloses a process for the production of a sorbent composition, which

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comprises: (a) admixing of zinc oxide, silica and alumina so as to form a mix thereof...; (b) particulating the resulting mix so as to form particles thereof; (c) drying the particulate of step (b); (d) calcining the dried particulate of step (c); (e) impregnating the resulting calcined particulate of step (d) with nickel or a nickel-containing compound; (f) drying the impregnated particulate of step (e); (g) calcining the dried particulate of step (f); and thereafter (h) reducing the resulting calcined particulate of step (g), etc. (see col. 14, claim 7). The mix is in the form of one of a wet mix, dough, part or slurry (see col. 14, claim 8). The particles are in the form of one of granules, extrudates, tablets, pellets, or micropores (see col. 14, claim 9). The claimed process conditions are fully disclosed at col. 14, claim 11 & claim 12. Sughue further discloses the amount of nickel is added as promoter in the amount ranging from about 5 to 50 weight percent (see col. 14, claim 10).

Regarding claims 1-14 & 16-34, while Sughue does not disclose including a promoter (or nickel) in the admixing step (a), it would have been *prima facie obvious* to one of ordinary skill in the art at the time the invention was made to have added such promoter to the mixture in the admixing step (a) of Sughue in order to achieve a promoted and effective catalyst composition, and in view of step (e) of the reference which teaches to impregnate the resulting calcined particulate with nickel (see Sughue at col. 14, claim 7).

Applicants claiming step (e), which is "recovering said composition" is noted. It is considered the inclusion of this recovering step in the process of Sughue is inherent in order to collect the most out of the final product resulted from the process.

Regarding claims 57-60, it would have been *prima facie obvious* to one of ordinary skill in the art at the time the invention was made to have added multiple solutions of the catalyst

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components in the process of Sughrue in order to achieve the desired metal concentrations of the catalytic components in the final catalyst since it involves only routine experimentation of one having the ordinary skill in the art to do so.

Claim Rejections - 35 USC § 102(b)/103

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 15 & 36 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sughrue et al., “hereinafter Sughrue”, (US Pat. 6,254,766).

Sughrue discloses the claimed composition (see above).

Product-by-process limitations in the claims are noted. It is considered that while the composition is not made by the same process, the composition made is the same as being claimed. Thus, the process limitations in the claims have no bearing on the patentability of the claimed product per se. See *In re Thorpe*, 227 USPQ 964 (Fed. Cir. 1985); *In re Brown*, 173

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USPQ 688, 688 (CCPA 1977); *In re Fessman*, 180 USPQ 324, 326 (CCPA 1977). See also *MPEP 2113*.

Response to Applicants' Arguments

7. Applicants' response filed on July 19, 2006 has been fully considered, but not deemed persuasive in view of the new ground of rejection(s) and/or objection(s) above.

It is considered the claimed step of "admixing the promoter in the initial step of creating the composition or in step (a)" does not appear to distinguish the claimed process from the process of the reference. Thus, the rejections are maintained.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Conclusion

9. Claims 1-64 are pending. Claims 1-36 & 57-64 are rejected. Claims 37-56 remain withdrawn due to non-elected (distinct) invention(s). No claims are allowed.

Contacts

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner Cam N Nguyen, whose telephone number is 571-272-1357. The examiner can normally be reached on M-F, 9:00 AM - 6:30 PM, at alternative work site.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cam N. Nguyen/

Nguyen/cnn

Primary Examiner

October 02, 2006

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